



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: CCB -174990

PRELIMINARY RECITALS

Pursuant to a petition filed June 14, 2016, request under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Marathon County Dept. of Social Services to deny child care assistance, a hearing was held on July 14, 2016, by telephone.

The issue for determination is whether the agency correctly used petitioner's income in determining child care eligibility for her granddaughter.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, WI 53703

By: [REDACTED]
Marathon County Dept. of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.

2. Petitioner applied for child care for her granddaughter on May 26, 2016. The household size is three people. The county determined that petitioner's monthly income of \$5,532.96 was above the child care limit of \$3,360 for a three-person household. The county denied the application by a notice dated May 31, 2016.
3. Petitioner's granddaughter is placed with petitioner by a court order. Petitioner has been approved for Kinship Care but is on a waiting list.

DISCUSSION

A caretaker is eligible for child care services if she needs the care to attend Wisconsin Works (W-2) approved school, to work, or to participate in W-2 activities. Wis. Stat., §49.155(1m)(a); Wisconsin Shares Child Care Subsidy Policy Manual, §1.4.8. The agency must utilize gross income, and for a new application the income limit for a family is 185% of the federal poverty limit. Wis. Stat., §49.155(1m)(c); Child Care Manual, §§1.5.1 and 1.5.1.1.

Typically the assistance group includes the caretaker, the caretaker's spouse or non-marital co-parent, the caretaker's dependent children, and of course the child under care. Manual, §1.4.1. All available income for the assistance group is budgeted in determining financial eligibility. Manual, §1.5.1. The Department has special provisions, however, for certain households, specifically foster homes, subsidized guardianships, interim caretakers, and relatives with court-ordered placements who receive Kinship Care. Manual, §1.8. In those situations it is not the income of the caretaker that is budgeted but the income of the child's parents. Manual, §1.8.1.

The issue in this case is the requirement by the Department that a relative with court-ordered placement must also be a recipient of Kinship Care to have eligibility tested. The criterion that the caretaker actually be receiving Kinship Care is a change. The old Child Care Manual, prior to the September, 2015 updated version, provided at §1.13.4 for a court order and that the caretaker receive Kinship Care or be on the Kinship Care waiting list. Petitioner argues that it is unfair to put is a requirement that the caretaker has no control over. The Department basically now requires participation in a program that is no allowing not participants.

The problem with petitioner's argument is that the new policy reflects the Wisconsin Statute for child care assistance. Wis. Stat., §49.155(1m)(c)1h reads: "If the individual is a relative of the child, is providing care for the child under a court order, and *is receiving payments* under s. 48.57(3m) or (3n) on behalf of the child, the child's biological or adoptive family has a gross income that is at or below 200 percent of the poverty line." Italics added. Section 48.57(3m) and (3n) are statutory provisions for Kinship Care.

Because the current policy follows the Wisconsin statute for child care eligibility, I must conclude that the county correctly budgeted petitioner's income in her child care application for her granddaughter.

CONCLUSIONS OF LAW

The county correctly budgeted petitioner's income in her child care application for her granddaughter and determined that the household was over the child care income limit.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 18th day of July, 2016

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 18, 2016.

Marathon County Department of Social Services
Child Care Benefits